



**BTA**  
BUSINESS TRANSFORMATION AGENCY

## **CASS Industry Day Small Business Smart Sheet**

14 November 2007

## Small Business Defined

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Small Business is located in U.S., organized for profit, including affiliates is independently owned & operated, not dominant in field of operations in which it is bidding on Government contracts, AND meets Small Business Administration (SBA) size standards included in solicitation. Small businesses include the following sub-categories: Veteran-Owned, Service-Disabled Veteran Owned, HUBZone, Small Disadvantaged, and Historically Black Colleges & Universities/Minority Institutions. The size standard is based upon the North American Industrial Classification System (NAICS) assigned to the specific procurement dependent upon product/service purchased. (FAR 19.001)

## What percentage of the subcontracting should be performed by the Small Business?

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The “Limitations on Subcontracting” clause, FAR 52.219-14 states that at least 50% of the cost of contract performance incurred for personnel shall be expended for employees of the concern.

The 50% rule is not applied in the same way for all classes of set asides. For example, if a contract is set aside for performance by a service-disabled veteran-owned (SDVO) concern or a HUBZone concern, the prime contractor does not have to perform 50 percent of the work itself, but may subcontract out some of the work so that 50 percent of the work is performed by SDVO or HUBZone concerns respectively.

The SBA regulations on the 50% rule are found in 13 CFR §125.6. The rule is stated slightly differently for service and supply contracts. For service contracts, the contractor must incur at least 50% of the cost of the labor cost using its own employees. In the case of a contract for supplies, the contractor must perform at least 50% of the cost of manufacturing the supplies, not including material. When the regulations refer to cost of performance, all allowable and allocable direct and indirect costs are included.

Labor costs include direct labor costs and any overhead which has only direct labor as its base, plus the concern's G&A rate multiplied by the labor cost. Obviously, there are some accounting errors in the regulations as they do not address fringe benefits. More importantly, they do not address the issue of G&A on subcontract costs, which could inflate subcontract costs. As to who is considered an employee, the regulations are quite liberal as full-time, part-time, and temporary employees are counted.

## Teaming Rules and Restrictions

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Any Small Business can team, the Small Business can be the prime and subcontract to Large Business or a Large Business can prime. The teaming arrangement must be in accordance with FAR 52.219-14, Limitations on Subcontracting.

## Joint Ventures

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(13 CFR 121.103(h)) A joint venture (JV) is a form of partnership where businesses come together to share knowledge, markets, and profits. Joint ventures can take on various forms. Small companies can band together. Big companies can form alliances with quicker and nimbler small businesses. And small companies have the opportunity to forge strategic alliances with big name companies for expanded geographic reach. A large business cannot be a JV participant on a Set Aside Procurement with one exception: 8(a) Mentor Protégé. The Small



Business Administration (the local SBA District Office) must approve an 8(a) JV agreement prior to award of an 8(a) contract (not prior to bidding).

## Consortiums

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Typically, the Government will use the terminology 'joint venture and teaming arrangements', more so than consortium. However, the terminology refers to groups/businesses/researchers that are working collectively using each other's knowledge and strengths to accomplish something together that possibly could not be accomplished separately. For instance, there are many consortiums (groups of scientists/researchers) studying cures for cancer and aids. They are working together, sharing information, lessons learned, etc.

In terms of Contracting, the SBA encourages contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually -- however the work is of the complexity suitable for small businesses. These collaborative efforts/teaming arrangements allow each member to benefit from the ideas and funding of the other members to solve common issues and to perform tasks.

## Listing of Army Small Business Specialist

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Use the following link to locate the Army Small Business Specialist.

<http://www.sellingtoarmy.info/User/Misc/SearchASBS.aspx?text=1>

To view all the Army Small Business Specialist's (SBS) under MACOM select "ALL" and under STATE select "ALL". If you are looking for a particular Agency like Army Contracting Agency (ACA) under MACOM please select "ACA" and under STATE select the appropriate state. This selection will yield the appropriate for the MACOM and the STATE selected.

